

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

No. 2015

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**Introduced by Assembly Member Mitchell**  
**(Coauthor: Assembly Member Alejo)**  
**(Coauthor: Senator De León)**

February 23, 2012

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An act to amend Section 851.5 of the Penal Code, relating to criminal procedure.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2015, as amended, Mitchell. Criminal procedure: telephone calls: arrested custodial parents.

Under existing law, immediately upon being booked and, except where physically impossible, no later than three hours after arrest, an arrested person has the right to make at least three completed telephone calls, as specified. Existing law requires that a sign informing the arrestee of this right be posted in a conspicuous place. Under existing law, if the arrested person is identified as a custodial parent with responsibility for a minor child, the arrested person is entitled to make 2 additional calls for the purpose of arranging for the care of the minor child or children in the parent's absence, as specified.

This bill would require the arresting or booking officer to inquire as to whether the arrested person is a custodial parent with responsibility for a minor child ~~immediately~~ *as soon as practicable* upon arrest, ~~and~~ *but*, except where physically impossible, no later than 3 hours after

arrest. The bill would require the booking officer or arresting officer to inform the person that he or she is entitled to, and may request to, make 2 additional telephone calls to arrange for care of a minor child, as provided, and would require a sign to be posted in a conspicuous place informing the arrestee that, if he or she is a custodial parent, he or she has the right to make the additional telephone calls. The bill would require that the signs informing the arrestee of his or her right to make telephone calls be made in any non-English language spoken by a substantial number of the public who are served by the police facility or place of detainment, as provided. The bill would state that the rights and duties provided by these provisions shall be enforced regardless of the arrestee's immigration status. The bill would also require an arrestee or detainee to be informed of the right to, and would authorize the person to request to, make at least 2 additional telephone calls to notify a child caregiver or family member when the person is ~~released~~, transferred, ~~or~~ held for immigration reasons, *or released to the custody of federal immigration authorities.*

By imposing new duties on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 851.5 of the Penal Code is amended to
- 2 read:
- 3 851.5. (a) (1) Immediately upon being booked and, except
- 4 where physically impossible, no later than three hours after arrest,
- 5 an arrested person has the right to make at least three completed
- 6 telephone calls, as described in subdivision (b).
- 7 (2) The arrested person shall be entitled to make at least three
- 8 calls at no expense if the calls are completed to telephone numbers

1 within the local calling area or at his or her own expense if outside  
2 the local calling area.

3 (b) At any police facility or place where an arrestee is detained,  
4 a sign containing the following information in bold block type  
5 shall be posted in a conspicuous place:

6 That the arrestee has the right to free telephone calls within the  
7 local calling area, or at his or her own expense if outside the local  
8 calling area, to three of the following:

9 (1) An attorney of his or her choice or, if he or she has no funds,  
10 the public defender or other attorney assigned by the court to assist  
11 indigents, whose telephone number shall be posted. This telephone  
12 call shall not be monitored, eavesdropped upon, or recorded.

13 (2) A bail bondsman.

14 (3) A relative or other person.

15 (c) ~~Immediately~~ *As soon as practicable* upon being arrested ~~and~~  
16 *but*, except where physically impossible, no later than three hours  
17 after arrest, the arresting or booking officer shall inquire as to  
18 whether the arrested person is a custodial parent with responsibility  
19 for a minor child. The arresting or booking officer shall notify the  
20 arrested person who is a custodial parent with responsibility for a  
21 minor child that he or she is entitled to, and may request to, make  
22 two additional telephone calls at no expense if the telephone calls  
23 are completed to telephone numbers within the local calling area,  
24 or at his or her own expense if outside the local calling area, to a  
25 relative or other person for the purpose of arranging for the care  
26 of the minor child or children in the parent's absence. ~~The notice~~  
27 ~~required by this subdivision shall be conducted in the arrestee's~~  
28 ~~primary language and can be conducted either by the arresting~~  
29 ~~officer or other representative of the arresting agency or through~~  
30 ~~an oral interpretation telephone service that the arresting agency~~  
31 ~~believes is competent to provide these services.~~

32 (d) At any police facility or place where an arrestee is detained,  
33 a sign containing the following information in bold block type  
34 shall be posted in a conspicuous place:

35  
36 ~~That the~~

37 *The* arrestee, if he or she is a custodial parent with responsibility  
38 for a minor child, has the right to two additional telephone calls  
39 within the local dialing area, or at his or her own expense if outside

1 the local area, for the purpose of arranging for the care of the minor  
2 child or children in the parent's absence.

3  
4 (e) These telephone calls shall be given immediately upon  
5 request, or as soon as practicable.

6 (f) The signs posted pursuant to subdivisions (b) and (d) shall  
7 make the specified notifications in any non-English language  
8 spoken by a substantial number of the public, as specified in  
9 Section 7296.2 of the Government Code, who are served by the  
10 police facility or place of detainment.

11 (g) The rights and duties set forth in this section shall be  
12 enforced regardless of the arrestee's immigration status.

13 (h) Upon being ~~released or transferred~~ for any reason, ~~or being~~  
14 held for immigration reasons, *or being released to the custody of*  
15 *federal immigration authorities*, an arrestee or detainee shall be  
16 informed of the right to, and may request to, make at least two  
17 telephone calls to notify a child caregiver or family member of the  
18 release, transfer, or hold and the location to which he or she will  
19 be transferred or the location of release, *if known*.

20 (i) This provision shall not abrogate a law enforcement officer's  
21 duty to advise a suspect of his or her right to counsel or of any  
22 other right.

23 (j) Any public officer or employee who willfully deprives an  
24 arrested person of any right granted by this section is guilty of a  
25 misdemeanor.

26 SEC. 2. If the Commission on State Mandates determines that  
27 this act contains costs mandated by the state, reimbursement to  
28 local agencies and school districts for those costs shall be made  
29 pursuant to Part 7 (commencing with Section 17500) of Division  
30 4 of Title 2 of the Government Code.